

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5124 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

CHANDRAKANT T JAGTAP

Versus

STATE OF GUJARAT

Appearance:

MR PH PATHAK for Petitioner
MR SK PATEL for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/09/1999

ORAL JUDGEMENT

#. Heard the learned counsel for the parties, perused the special civil application, reply to the special civil application and rejoinder thereto filed by the petitioner.

#. This writ petition has been admitted by this Court on 2.4.87 and interim relief in terms of para-9(d) has also

been granted. Para-9(d) of the special civil application reads as under:

Pending admission and final disposal of this petition, be pleased to direct respondent to take petitioner on duty and pay regular salary #. This order of this Court has been challenged by respondent before the Hon'ble Supreme Court by filing Petition for Special Leave to Appeal No.15491 of 1987. This Petition for Special Leave to Appeal was decided by the Hon'ble Supreme Court and the order reads as under:

It is stated that the interim order passed by the High Court i.e. an ex parte order, it is open to the petitioner to apply to the High Court to vacate the stay order or for the modification of the order. Special Leave Petition is dismissed.

#. It is really shocking that thereafter no steps whatsoever have been taken by the respondent for vacation or modification of the order of this Court dated 2.4.87 and for all these years, this interim relief granted by this Court in mandatory form continues. It is true that interim relief, more so in the mandatory form in the case of category to which this case belongs, normally may not be granted as otherwise it amounts to granting of final relief, but as said earlier, it continues for all these years.

#. In the rejoinder to the reply, the petitioner has brought manifold subsequent developments which have taken place. In these facts, the learned counsel for the petitioner submits that this matter deserves to be considered first by the State. It is further submitted that the claim of the petitioner for regularization in the services while regularizing the services of the junior persons was not considered by the respondent on the ground that this special civil application is pending. He further submits that to remove this hurdle, the petitioner may be permitted to withdraw this special civil application so as to file a detailed representation with respect to his grievances to the respondent and the respondent may be given directions to decide the same on merits.

#. I find sufficient merits and justification in this prayer of the learned counsel for the petitioner. At this stage, the learned counsel for the petitioner is permitted to withdraw this special civil application with liberty to the petitioner to file a detailed representation in respect of his grievances made in the special civil application as well as in the rejoinder to

the reply to the respondent. The respondent shall decide that representation within a period of two months from the date of receipt thereof. Where the grievances of the petitioner are not acceptable, a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D. In case of difficulty, liberty is granted to the petitioner for revival of this special civil application or to file fresh special civil application as what he desires and considers necessary. Till the representation is decided by the respondents and further for fifteen days more from the date of decision thereof, where it is decided against the petitioner, interim relief granted by this Court shall continue. The special civil application and rule stand discharged subject to aforesaid directions with no order as to costs.

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[sunil]